IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1750 OF 2005

Abdul Dayyum Allauddin Athania & Ors ...Petitioners

Versus

Sayyed Mubein & Ors ...Respondents

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Mr. M. Iqbal Y. Solkar, Advocate for Petitioner

Mr. Y.S. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 10TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The petitioner has challenged the show cause notice dated 30.3.2005 issued against him by the Respondent No.1 i.e. Special Executive Magistrate, Tardeo Division, Tardeo, Mumbai. The said show cause notice is issued in Chapter Case No. 37 of 2005. The petitioner has prayed that the chapter proceedings i.e. Chapter case No. 37 of 2005 be quashed.

3. In the present case, it is seen that a show cause notice has been issued to the petitioner. On

instructions the learned A.P.P. has made a categorical submission that no final order has been passed in the said chapter proceedings and the matter is pending consideration before the Special Executive Magistrate.

4. In this view of the matter, I am not inclined to quash the chapter proceedings at this stage. At this stage, in my opinion, it would be premature to quash the proceedings against the petitioner. The Special Executive Magistrate shall give sufficient opportunity to the petitioner to defend himself by leading evidence if necessary and thereafter, decide the proceedings. In case order is passed directing the petitioner to execute a bond or furnish surety, he shall be given four days time to furnish bond and surety.

5. Writ Petition is disposed of in terms of the above order.

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